state Commerce Commission, yet if such stipulation in the tariffs limits liability for loss of baggage to $100 if no other valuation is declared, and the regulations are observed, and the passenger makes no declaration, he cannot recover more than the $100. However, the dissenting opinion by Justice Pitney, in which he says that the formula of rates filed does not constitute a binding contract without the consent of the passenger or shipper, and that there is no basis for estoppel, as in the *Hart* case, *supra*, seems better law. *Homer* v. *Railroad*, 42 Utah, 15; *St. Louis, I. M. & S. Ry. Co.* v. *Faulkner*, 111 Ark. 430. In *Ferris* v. *Minneapolis & St. L. Ry. Co.*, 173 N. W. 178, in a baggage case arising under a state statute similar to the Hepburn Act, it was likewise held that there must be a valid contract fairly assented to by the passenger, and that the contract must be a reasonable limitation, the burden of proof being on the carrier to prove the contract. At any rate, to apply the result of the decisions to one traveling from Canada is carrying a bad thing too far. And to say that the Act meant to include travelers from an adjacent foreign country, as well as those to such country, it is submitted, is judicial legislation. True, in *International Paper Co.* v. *D. & H. Co.*, 33 I. C. C. 270, as Justice Brandeis says, the Commission placed that construction on the Act, but that controversy concerned a difference in rates between Canada and the United States, and the Commission held that it had authority over all carriers within the limits of the United States, without regard to direction of shipments. Yet it held the rate established by the Canadian Commission to be reasonable, and that comity demanded that it be not changed. *T. & P. Ry. Co.* v. *I. C. C.*, 162 U. S. 197, cited, says, in a *dictum*, that the Act was meant to apply to the whole field of commerce except intrastate, but this was not necessary to the decision. But perhaps this decision, like that in the *Pierce* case, *supra*, will agitate better legislation on this matter.

CONSTITUTIONAL LAW—CONCURRENT POWER UNDER THE EIGHTEENTH AMENDMENT.—Habeas corpus proceedings against sheriff for detaining plaintiff, who was arrested for violating the prohibition law of the state. Plaintiff maintains that the Volstead Act superseded and abrogated all state laws on the subject, and hence there was no state law in existence. *Held*, the power of the state is equal to that of Congress in passing laws on this subject, so the state law was not abrogated. *Jones* v. *Hicks* (Georgia, 1920), 104 S. E. 771.

For a discussion of the meaning of "concurrent power" under the Eighteenth Amendment, see 19 MICH. L. REV. 329. The opinion in the principal case goes so far as to say that Congressional legislation cannot interfere with the enactment of any future legislation by the states to enforce prohibition. This gives to Congress and the states equal power. This suggests the analogy of concurrent jurisdiction exercised by states over the waters of a river forming the boundary between them. See *Wedding* v. *Meyler*, 192 U. S. 573; *Neilson* v. *Oregon*, 212 U. S. 315; *supra*, p. 331. But Justice White, in *Rhode Island* v. *Palmer*, 40 Sup. Ct. 486, said that the object of the second section of the amendment was to adjust the matter to our dual

system of government. To hold that Congress and the states have equal power here would change the dual system. In *Gibbons* v. *Ogden,* 9 Wheat. 1, at p. 211, Chief Justice Marshall said that state laws enacted by the states in the exercise of their acknowledged sovereignty, not transcending their powers, must give way to laws passed by Congress in pursuance of the Constitution where contrary to them, for the Acts of Congress are supreme. See *Wisconsin* v. *Duluth,* 96 U. S. 379. In *Keller* v. *U. S.,* 213 U. S. 138, which held that an Act of Congress was invalid because it encroached upon the police power of the state, Justice Brewer says, at p. 145: "Doubtless it not infrequently happens that the same act may be referable to the power of the state as well as to that of Congress. If there be collision in such cases the superior authority of Congress prevails." The principal case relies on *Ex parte Guerra,* 110 Atl. 224. In that case the plaintiff, convicted under a state prohibition law, maintained that the war-time Prohibition Act of Congress superseded all state legislation, but it was held that Congress acted under valid war power and the state under a valid exercise of its police power, and that the state statute does not yield to that of Congress *unless its enforcement conflicts* with the Acts of Congress. It was, in that case, held not to conflict. It is submitted that any proper adjustment to our dual system of government requires the state statute to yield in case of manifest repugnance to the Act of Congress. See *City of Shreveport* v. *Marx* (La., 1920), 86 So. 602.

CONSTITUTIONAL LAW—DUE PROCESS—EXEMPTION OF FARMER FROM FOOD CONTROL UNDER LEVER ACT.—Under section four of the Lever Act it is made unlawful for persons to perform any acts knowingly in an attempt to enhance prices, or prevent production, to cripple transportation of necessaries, or to attempt to acquire a monopoly of such necessaries, and it is also made punishable by fine or imprisonment for persons to combine or conspire to accomplish such ends. It is also provided that this section shall not apply to farmers or associations of farmers, and upon the basis that this was a classification without a reasonable basis it was *held* that this section of the Act was invalid. *U. S.* v. *Yount* (D. C., W. D., Pa., 1920), 267 Fed. Rep. 861.

It is unquestioned that the separate states in the exercise of their police powers may subject the citizen to such restraint, to be enforced by reasonable regulations, as the safety of the general public may demand. To do this, classification of the different subjects or persons to be regulated is always permissible so long as the classification rests upon some difference bearing a reasonable and just relation to the subject matter in respect to which the classification is proposed. *Connolly* v. *Union Sewer Pipe Co.,* 184 U. S. 540, 46 L. Ed. 679. Yet this classification may not be arbitrary and without reasonable basis. The court in the principal case, following the precedent in the *Connolly* case, takes the stand that since the purpose of the act is to prevent the hoarding, the monopolizing, the manipulation of necessaries so as to raise prices and to allow profiteering, the exemption of the